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Chapter No. 359

15/SS02/R492CS

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SENATE BILL NO. 2273

Originated in Senate



Secretary

SENATE BILL NO. 2273

AN ACT TO AMEND SECTION 57-80-7, MISSISSIPPI CODE OF 1972, TO REMOVE THE DECEMBER 31, 2012, DEADLINE FOR APPLICATIONS BY COUNTIES FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY UNDER THE GROWTH AND PROSPERITY ACT; TO PROVIDE THAT ANY COUNTY THAT HAS AN UNEMPLOYMENT RATE THAT IS AT LEAST 200% OF THE STATE'S UNEMPLOYMENT RATE AS OF DECEMBER 31 OF ANY YEAR AFTER DECEMBER 31, 2000, MAY APPLY UNDER THE PROGRAM; TO AMEND SECTION 57-80-9, MISSISSIPPI CODE OF 1972, TO EXTEND UNTIL DECEMBER 31, 2029, THE CUT-OFF DATE FOR STATE AND LOCAL TAX EXEMPTIONS FOR BUSINESS ENTERPRISES UNDER THE GROWTH AND PROSPERITY ACT; TO BRING FORWARD SECTION 57-80-5, MISSISSIPPI CODE OF 1972; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 57-80-7, Mississippi Code of 1972, is amended as follows:

57-80-7. (1) From and after December 31, 2000, * * * the following counties may apply to the MDA for the issuance of a certificate of public convenience and necessity:

(a) Any county of this state which has an annualized unemployment rate that is at least two hundred percent (200%) of the state's unemployment rate as of December 31 of any year * * *

after December 31, 2000, as determined by the Mississippi Department of Employment Security's most recently published data;

(b) Any county of this state in which thirty percent (30%) or more of the population of the county is at or below the federal poverty level according to the official data compiled by the United States Census Bureau as of August 30, 2000, for counties that apply before December 31, 2002, or the most recent official data compiled by the United States Census Bureau for counties that apply from and after December 31, 2002; or

(c) Any county of this state having an eligible supervisors district.

(2) The application, at a minimum, must contain (a) the Mississippi Department of Employment Security's most recently published figures that reflect the annualized unemployment rate of the applying county as of December 31 or the most recent official data by the United States Census Bureau required by subsection (1) of this section, as the case may be, and (b) an order or resolution of the county consenting to the designation of the county as a growth and prosperity county.

(3) Any municipality of a designated growth and prosperity county or within an eligible supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of subsection (1)(b) of this section may by order or resolution of the municipality consent to participation in the Growth and Prosperity Program.

(4) No incentive or tax exemption shall be given under this chapter without the consent of the affected county or municipality.

SECTION 2. Section 57-80-9, Mississippi Code of 1972, is amended as follows:

57-80-9. (1) Upon the issuance by the MDA of its certificate of public convenience and necessity, designating certain counties as growth and prosperity counties, any approved business enterprise in any such a growth and prosperity county or any approved business enterprise located within an eligible supervisors district within eight (8) miles of the boundary of the county that meets the criteria of Section 57-80-7(1)(b) shall be exempt from all local taxes levied by the county and all state taxes for a period of ten (10) years or until December 31, * * * 2029, whichever occurs first, and upon consent of any municipality within such county or within such supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of Section 57-80-7(1)(b), shall be exempt from all local taxes levied by such municipality for a period of ten (10) years or until December 31, * * * 2029, whichever occurs first; however, if the business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to utilize the exemption from state taxes, the MDA may extend the duration of the exemption from state taxes for not more

than two (2) years or until December 31, * * * 2029, whichever occurs first. Any business enterprise that has property or equipment purchased utilizing the state tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

(2) The following conditions, along with any other conditions the MDA shall promulgate from time to time by rule or regulation, shall apply to such exemptions: (a) any exemption provided under this chapter is nontransferable and cannot be applied, used or assigned to any other person or business or tax account; (b) no approved business enterprise may claim or use the exemption granted under this chapter unless that enterprise is in full compliance with all state and local tax laws, and related ordinances and resolutions; and (c) the approved business enterprise must enter into an agreement with the MDA which sets out, at a minimum the performance requirements of the approved business enterprise during the term of the exemption and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements of the approved business enterprise are not met.

(3) Upon entering into such an agreement, the MDA shall forward such agreement to the * * * Department of Revenue and the affected local taxing authorities so that the exemption can be implemented. The * * * Department of Revenue shall promulgate

rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of both local and state exemptions granted under this chapter.

(4) Any business enterprise that relocates its present operation and jobs to a growth and prosperity county or an eligible supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of Section 57-80-7(1)(b) from another county in the state shall not receive any of the exemptions granted in this chapter.

(5) If the annualized unemployment rate in a growth and prosperity county falls below one hundred fifty percent (150%) of the state's annualized unemployment rate for three (3) consecutive calendar years and less than thirty percent (30%) of the population of the county is at or below the federal poverty level according to the most recent official data compiled by the United States Census Bureau as of December 31 of the third of such consecutive calendar years, the tax exemptions authorized under this chapter may not be granted to additional business enterprises.

SECTION 3. Section 57-80-5, Mississippi Code of 1972, is brought forward as follows:

57-80-5. As used in this chapter, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Approved business enterprise" means any business enterprise seeking to locate or expand in a growth and prosperity county, which business enterprise is approved by the MDA.

(b) "Business enterprise" means any new or expanded (i) industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products or goods, including products of agriculture; (ii) enterprises for research and development, including, but not limited to, scientific laboratories; or (iii) such other businesses or industry as will be in furtherance of the public purposes of this chapter as determined by the MDA and which creates a minimum of ten (10) jobs. "Business enterprise" does not include retail or gaming businesses or electrical generation facilities.

(c) "Eligible supervisors district" means:

(i) A supervisors district:

1. As such district exists on January 1, 2001, in which thirty percent (30%) or more of such district's population as of June 30, 2000, is at or below the federal poverty level according to the official data compiled by the United States Census Bureau as of June 30, 2000, or the official 1990 census poverty rate data (the official 1990 census poverty rate data shall not be used to make any such determination after December 31, 2002); or

2. In which thirty percent (30%) or more of such district's population is at or below the federal poverty

level according to the latest official data compiled by the United States Census Bureau;

(ii) Which is contiguous to a county that meets the criteria of Section 57-80-7(1)(b); and

(iii) Which is located in a county which has been issued a certificate of public convenience and necessity under this chapter.

(d) "Growth and prosperity counties" means those counties which meet the requirements of this chapter and which have by resolution or order given its consent to participate in the Growth and Prosperity Program.

(e) "Local tax" means any county or municipal ad valorem tax imposed on the approved business enterprise pursuant to law, except the school portion of the tax and any portion of the tax imposed to pay the cost of providing fire and police protection.

(f) "Local taxing authority" means any county or municipality which by resolution or order has given its consent to participate in the Growth and Prosperity Program acting through its respective board of supervisors or the municipal governing board, council, commission or other legal authority.

(g) "MDA" means the Mississippi Development Authority.

(h) "State tax" means:

(i) Any sales and use tax imposed on the business enterprise pursuant to law related to the purchase of component

building materials and equipment for initial construction of facilities or expansion of facilities in a growth and prosperity county or supervisors districts, as the case may be;

(ii) All income tax imposed pursuant to law on income earned by the business enterprise in a growth and prosperity county, or supervisors district, as the case may be;

(iii) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise in a growth and prosperity county, or supervisors district, as the case may be; and

(iv) Any sales and use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion, including, but not limited to, leases in existence prior to January 1, 2001, as certified by the MDA, in a growth and prosperity county, or supervisors district, as the case may be.

SECTION 4. The acceptance of applications for certificates of public convenience and necessity made by counties under the Growth and Prosperity Act after December 31, 2012, through the effective date of this act, and any actions taken by the Mississippi Development Authority regarding such applications are hereby ratified and confirmed.

SECTION 5. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
February 12, 2015



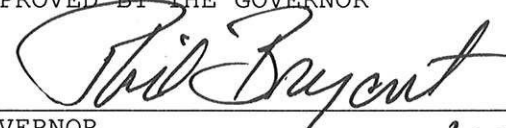
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 4, 2015



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

3/17/15
12:29 pm